

840 CMR 10.00: STANDARD RULES FOR DISABILITY RETIREMENT

10.16: Modification of Retirement Allowance and Fair Amount of Outside Earnings and Potential Earnings
Pursuant to M.G.L. c. 32, § 8(3)

- (1) For purposes of 840 CMR 10.16, “regular compensation” means, regular compensation which would have been payable during the preceding year had the member continued in service in the grade held by him at the time he was retired.
- (2) For purposes of 840 CMR 10.00, “potential earnings” shall mean:
 - (a) For a disability retiree who has been found able to return to his position, the amount that would have been received had he or she been reinstated to active service.
 - (b) For a disability retiree who has completed a rehabilitation program, an amount that the member can potentially earn will be determined as a part of the rehabilitation program, after consideration of a disability retiree’s functional capacity, age, education, and experience.
- (3) The Commission shall review all medical panel reports filed with respect to disability retirees, all earnings information submitted under M.G.L. c. 32, § 91A, and all reports submitted as the result of the completion of a rehabilitation program.
- (4) If the Commission finds that:
 - (a) a retired member is engaged or is able to engage in gainful occupation, and
 - (b) that the annual rate of his actual or potential earnings is less than his regular compensation as defined in this subdivision, but is more than the difference between such regular compensation plus the sum of \$5,000, and the normal yearly amount of his retirement allowance, the yearly amount of his pension shall be reduced, and if his actual or potential earnings are more than such regular compensation, his pension shall be suspended.
- (5) If the Commission finds that a member has submitted earnings information pursuant to M.G.L. c. 32, § 91A indicating earnings in excess of regular compensation as defined by this regulation, the member's pension shall be reduced or suspended and shall not be reinstated or increased for a period of one year unless a report of a medical panel finds that the mental or physical condition of such member has deteriorated. If the annual rate of his earnings should later be changed, the yearly amount of his pension shall be further modified by reinstating, increasing, reducing, or suspending it, as the case may be.
- (6) For purposes of 840 CMR 10.00 and M.G.L. c. 32, § 8(3) the fair amount that a member retired for disability pursuant to M.G.L. c. 32, § 6 or 7 may earn or may potentially earn shall be annually adjusted for inflation. To accomplish this, the Commission will determine the increase in the consumer price index in the same manner as determined for purposes of M.G.L. c. 32, § 102 and shall increase by that amount the \$5,000 referred to in 840 CMR 10.16(4) be used in calculating the modification of a disability retiree’s allowance pursuant to M.G.L. c. 32, § 8(3). Each year the Commission will issue an advisory to the retirement boards that will identify the increase for the following year and describe the method used to arrive at the increase. Any increases applied to the \$5,000 shall be permanent and any future increases will be applied to the permanent amount from the prior year.